

United States Court of Appeals For the First Circuit

No. 06-2312

DC No. 05-11353

KEVIN NORRIS

Petitioner - Appellant

v.

STEVEN O'BRIEN, Superintendent, North Central Correction
Institution

Respondent - Appellee

ORDER OF COURT

Entered: November 28, 2006

Pursuant to 1st Cir. R. 27(d)

Appellant's motion for leave to proceed in forma pauperis and supporting financial affidavit with attached prison trust account statement are transmitted to the district court for action in the first instance pursuant to Fed. R. App. P. 24(a)(1). Copies of the district court's ruling shall be forwarded to this court. The district court, if it denies the motion, is requested to state its reasons in writing. Fed. R. App. P. 24(a)(2). If appellant is not granted in forma pauperis status by the district court, he may file a motion to proceed in forma pauperis in this court, provided that he do so in accordance with Fed. R. App. P. 24(a)(5).

By the Court:
Richard Cushing Donovan, Clerk

MARGARET CARTER

By: _____
Chief Deputy Clerk

CERTIFIED COPY
I HEREBY CERTIFY THIS DOCUMENT
IS A TRUE AND CORRECT COPY OF
THE ORIGINAL ON FILE IN MY OFFICE
AND IN MY LEGAL CUSTODY

FIRST CIRCUIT COURT OF APPEALS
BOSTON, MA

By: Christy Phillips Date: 11/28/06

[certified copies: Sarah Thornton, Clerk of the US District Court of Massachusetts and the
Honorable Mark L. Wolf]
[cc: Kevin Norris, Cathryn A. Neaves, AAG, Jonathan M. Ofilos, AAG]

Kevin Norris W-52945
Nemasket Corr. Center
30 Administration Rd.
Bridgewater, MA 02324

United States Court of Appeals
Office of the Clerk
1 Courthouse Way-suite 2500
Boston, MA 02210

RE: Kevin Norris V. Steven O'Brien
Docket No.06-2312

mc
**CAP
PRO SE**

November 12, 2006

Dear Sir/Madam:

Please find enclosed herein the petitioners motion for leave to appeal in forma pauperis. Kindly, file and bring to the courts attention.

Thank you for your kind attention to this matter.

Sincerely,

Kevin Norris
Kevin Norris

CC: Kathryn A. Neaves

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

CIVIL DOCKET

No. 06-2312006 NOV 24 P 1:05

KEVIN NORRIS
Petitioner-Appellant

FILED IN CLERKS OFFICE
US COURT OF APPEALS
FOR THE FIRST CIRCUIT

v.

STEVEN O'BRIEN, Superintendent
Respondent-Appellee

MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS

Now Comes the Petitioner-Appellant, in the above-cited matter, and respectfully moves this Honorable Court, pursuant to Fed.R.App.P. 24, for leave to appeal in forma pauperis.

As reasons therefore, the petitioner-appellant, states that his currently incarcerated under the care in custody of the Massachusetts Department of corrections, and is indigent. The only means of "financial support" devives from two family members who send him money to purchase certain items, i.e., stamps, cosmetic items, clothing, etc... In support of this claim, the petitioner-appellant has attached hereto an affidavit.

Furthermore, the petitioner-appellant implores this Honorable Court, to stay a decision-finding on this motion to after the District Court has ruled on his Certificate of appealability.

Wherefore, the petitioner-appellant prays that this Honorable Court:

1. Allow this motion, and allow him to proceed in forma pauperis.

-2-

Respectfully Submitted

Kevin Norris
Kevin Norris (Pro se)
30 Administration Road
Bridgewater, MA 02324

Dated: November 12, 2006

**Affidavit to Accompany
Motion for Leave to Appeal in Forma Pauperis**

NOV 24 P 1:07
FILED IN CLERKS OFFICE
US COURT OF APPEALS
FOR THE FIRST CIRCUIT

District Court No. 05-11353
Appeal No. 06-2312

v.

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: Keevin Martin

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 11/12/06

My issues on appeal are:

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>10.00</u> \$ <u>DEPENDS</u> ON CHARITY OF FAMILY	\$ <u>N/A</u> From (DOC) Prison Job.
Self-employment	\$ <u>0</u>	\$ <u>#</u>	\$ <u>↓</u>	\$ <u>↓</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>↓</u>	\$ <u>↓</u>	\$ <u>↓</u>
Interest and dividends	\$ <u>0</u>	\$ <u>↓</u>	\$ <u>↓</u>	\$ <u>↓</u>

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Gifts	\$ 0	\$ 0 NA	\$	\$ 0 N/A
Alimony	\$ N/A	\$	\$	\$
Child support	\$ 0	\$	\$	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$	\$	\$
Disability (such as social security, insurance payments)	\$ 0	\$	\$	\$
Unemployment payments	\$ 0	\$	\$	\$
Public-assistance (such as welfare)	\$ 0	\$	\$	\$
Other (specify):	\$	\$	\$	\$
Total Monthly income:	\$	\$	\$	\$

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
XXX			

3. List your spouses's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay

N/A

Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operations of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ _____	\$ _____

9. Do you expect any major changes to your monthly income or expenses in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☐ No

If yes, how much? \$ _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? \$ _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

I AM CURRENTLY INCARCERATED, I RELY ON DONATIONS FROM FAMILY AND FRIENDS TO PURCHASE STAMPS, CLOTHES, FOOD, COSMETICS, ETC...

13. State the address of your legal residence.

NEMANSKET CORR. CENTER

30 ADMINISTRATION ROAD, BRIDGEWATER, MA 02324.

Your daytime phone number: () _____

Your age: 33 Your years of schooling: 12

Your social security number: 020-56-4884

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF CORRECTION

Inmate Transaction Report

Date : 20061116 15:58

Page : 4

Commit# : W52945

MASS. TREATMENT CENTER

Name : NORRIS, KEVIN,

Statement From 20060516

Inst : MASS. TREATMENT CENTER

To 20061116

Block : SOUTH2

Cell/Bed : 205 /E

Transaction Date	Type	Receipt #	Check No	Inst Name	Notes	Personal		Savings	
						Income	Expense	Income	Expense
20061026 22:30	CN - Canteen	7577676		MTC	--Canteen Date 20061026	\$0.00	\$27.53	\$0.00	\$0.00
20061101 14:47	IC - Transfer from Inmate to Club A/c	7596816		MTC	--CERT 70010320000441879882--POSTAGE --Z11--POSTAGE - Z11	\$0.00	\$5.60	\$0.00	\$0.00
20061102 22:30	CN - Canteen	7611757		MTC	--Canteen Date : 20061102	\$0.00	\$16.62	\$0.00	\$0.00
20061103 13:30	ML - Mail	7616378		STH	--CARLA NORRIS	\$30.00	\$0.00	\$0.00	\$0.00
20061103 13:30	TI - Transfer from Institution	7616383		MTC	--Associate Receipt Number is 7616378	\$29.00	\$0.00	\$0.00	\$0.00
20061103 13:30	MA - Maintenance and Administration	7616380		STH	--Monthly Maintenance and Administration Fee	\$0.00	\$1.00	\$0.00	\$0.00
20061103 13:30	TI - Transfer from Institution	7616382		STH	--Associate Receipt Number is 7616378	\$0.00	\$29.00	\$0.00	\$0.00
20061103 14:01	CI - Transfer from Club to Inmate A/c	7616749		MTC	--REFUND 10/5/06--W52945 NORRIS,KEVIN PERSONAL--KCN WASH ACCOUNT - Z5	\$3.93	\$0.00	\$0.00	\$0.00
20061103 14:01	TI - Transfer from Institution	7616751		MTC	--Associate Receipt Number is 7616749	\$3.93	\$0.00	\$0.00	\$0.00
20061103 14:01	TI - Transfer from Institution	7616750		STH	--Associate Receipt Number is 7616749	\$0.00	\$3.93	\$0.00	\$0.00
20061108 13:26	CI - Transfer from Club to Inmate A/c	7637078		MTC	--REFUND 10/19/06--W52945 NORRIS,KEVIN PERSONAL--KCN WASH ACCOUNT - Z5	\$14.47	\$0.00	\$0.00	\$0.00
20061108 13:26	TI - Transfer from Institution	7637079		STH	--Associate Receipt Number is 7637078	\$0.00	\$14.47	\$0.00	\$0.00
20061108 13:26	TI - Transfer from Institution	7637080		MTC	--Associate Receipt Number is 7637078	\$14.47	\$0.00	\$0.00	\$0.00
20061109 17:05	IS - Interest	7654492		MTC		\$0.47	\$0.00	\$0.00	\$0.00
20061109 17:05	IS - Interest	7654493		MTC		\$0.00	\$0.00	\$1.60	\$0.00
20061109 22:30	CN - Canteen	7667960		MTC	--Canteen Date : 20061109	\$0.00	\$35.28	\$0.00	\$0.00
20061115 21:12	PY - Payroll	7693503		MTC	--20061029 To 20061104--Corrected Payroll 20061022	\$2.50	\$0.00	\$0.00	\$0.00
20061115 21:12	PY - Payroll	7693504		MTC	--20061029 To 20061104--Corrected Payroll 20061022	\$0.00	\$0.00	\$2.50	\$0.00
						\$1,754.70	\$1,739.61	\$761.72	\$651.57

Balance as of ending date :

Personal

\$15.35

Savings

\$252.45

Current Balances :

Personal	Savings	Freeze	Loan	Restitution	Sentence
\$15.35	\$252.45	\$0.00	\$0.00	\$0.00	\$0.00

Inmate Name..... Kevin NorrisCommitment number.... W52945Period encompassed.... 5/16/2006 11/16/2006

		personal	savings	total
Beginning Balance:	05/16/06	\$ 0.26	\$ 142.30	\$ 142.56
Balance as of	06/16/06	\$ 388.55	\$ 441.66	\$ 830.21
Balance as of	07/16/06	\$ 235.41	\$ 443.68	\$ 679.09
Balance as of	08/16/06	\$ 66.42	\$ 446.52	\$ 512.94
Balance as of	09/16/06	\$ 0.05	\$ 449.46	\$ 449.51
Balance as of	10/16/06	\$ 65.83	\$ 248.35	\$ 314.18
Ending Balance:	11/16/06	\$ 15.35	\$ 252.45	\$ 267.80

Six month average balance: \$ 456.61

20% of six month average balance: \$ 91.32

total expenditures for period: \$ 1,503.58

total income for period: \$ 1,518.20

To the best of my knowledge the above summary information is true and accurate:

Signed:

Jeanne Petrillo11/16/2006

note to clear numbers Ctrl-Z